

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

**CARLOS A. GARCIA-PEREZ,
et al.,**

Plaintiffs,

v.

ALVARO SANTAELLA, MD, et al.,

Defendants.

Civil No. 97-1703 (JAG)

**PLAINTIFFS' OPPOSITION TO "MOTION TO STRIKE
PLAINTIFFS' RESPONSE IN OPPOSITION AS UNTIMELY"**

TO THE HONORABLE COURT:

COME NOW the plaintiffs, through the undersigned attorneys, and to this Honorable Court respectfully state and pray:

1. Defendant American International Insurance Company of Puerto Rico ("AIICO") has moved to strike "Plaintiffs' Opposition to Motion to Strike" ("Opposition") regarding Plaintiffs' Motion *In Limine* on the basis that it was untimely filed.

2. Plaintiffs' Opposition acknowledged that it was untimely filed due to the inadvertent oversight of the response deadline, and respectfully requested this Court's acceptance of the late filing of the Opposition. The undersigned attorneys have never missed a deadline before this Court prior to this occasion. Moreover, the undersigned law firm has been involved in the elections vote recount case currently pending before Hon. Judge Domínguez, which as this

Court is aware, has been on an expedited and intense track.

3. The deadline to file the Opposition was not November 22, 2004, as claimed by AIICO. Pursuant to Rule 6(a) of the Federal Rules of Civil Procedure, the ten (10) day limit to file an opposition is computed by excluding Saturdays, Sundays, and legal holidays. The federal court was officially closed on November 11, 19, 25, and 26, 2004. Since AIICO's Motion to Strike the Motion *In Limine* was filed on November 9th, the proper computation yields a deadline of November 29, 2004.

4. Moreover, Rule 6(e) provides for an additional three (3) calendar days to be added to the prescribed period when service is by mail. The advent of electronic filing has not yet revoked this additional three (3) day period. Adding the three (3) days results in a deadline of December 2, 2004. Plaintiffs filed their Opposition on December 6th, only two (2) working days late.

5. Both of AIICO's motions to strike are merely intended to prevent this Court from addressing the merits of plaintiffs' Motion *In Limine*.

WHEREFORE, plaintiffs respectfully request that this Honorable Court deny AIICO's "Motion to Strike Plaintiffs' Response in Opposition as Untimely."

Respectfully submitted.

In San Juan, Puerto Rico, this 9th day of December, 2004.

I HEREBY CERTIFY: That I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Pedro J. Córdova, Esq., P.O. Box 9023998, San Juan, Puerto Rico 00902-3998; Angel R. de Corral-Juliá, Esq., De Corral & De Mier, 130 Eleonor Roosevelt, San Juan, Puerto Rico 00918-3105; Marta E. Vilá-Báez, Esq., Sánchez, Betances & Sifre, P.O. Box 195055, San Juan, Puerto Rico 00919-5055; Roberto Ruiz-Comas, Esq., González Pando Plaza, 1181 Jesús T. Piñeiro Avenue, San Juan, Puerto Rico 00920-5604; José Enrique Otero, Esq., P.O. Box 9023933, San Juan, Puerto Rico

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00902-3933; José Héctor Vivas, Esq., Vivas & Vivas, P.O. Box 330951, Ponce, Puerto Rico 00733-0951; Igor J. Domínguez, Esq., 652 Muñoz Rivera Avenue, Suite 3125, Hato Rey, Puerto Rico 00918-4261; Doris Quiñones-Tridas, Esq., 113 Padre Las Casas, Suite 601, Urb. El Vedado, San Juan, Puerto Rico 00918-3116; Pedro Toledo-González, Esq., Julio Bogoricin Building, Office L-06, Lobby, 1606 Ponce de León Avenue, Santurce, Puerto Rico 00909; and Gilda del C. Cruz Martino, Esq., P.O. Box 9023875, San Juan, Puerto Rico 00902-3875.

s/ Joan S. Peters

Joan S. Peters

USDC-PR 207409

e-mail: nrodriguez@guillemardlaw.com

s/ Andrés Guillemard-Noble

Andrés Guillemard-Noble

USDC-PR 207308

e-mail: aguillemard@guillemardlaw.com

NACHMAN & GUILLEMARD

Attorneys for Plaintiffs

P.O. Box 9949

San Juan, Puerto Rico 00908

Tel. (787) 724-1212; Fax (787) 725-1339